

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

WHITNEY NATIONAL BANK

PLAINTIFF,

vs.

**SAFETY GUIDE OF ALABAMA
LLC and THOMAS J. MILLS,**

DEFENDANTS.

CASE NO. 2:07-cv-414-MEF

**PLAINTIFF WHITNEY NATIONAL BANK'S RESPONSE TO ORDER
TO SHOW CAUSE [Doc. 9] WHY MOTION TO DISMISS OR QUASH
SERVICE [Doc. 5] SHOULD BE DENIED**

Comes now Whitney National Bank (hereinafter “Whitney Bank”) and, as ordered by this Court [Doc. 9], provides the following reasons the Motion to Dismiss, or, Alternatively, to Quash Purported Service on Defendant Safety Guide of Alabama, LLC, [Doc. 5] is due to be denied as moot:

1. Defendant Safety Guide of Alabama, LLC, (“Safety Guide”) contends in its motion that the Court should quash the purported service of process, or, in the alternative, to dismiss this action against it for insufficient service of process.
2. Since the filing of its motion, Safety Guide’s legal counsel, J. David Martin, has agreed to accept service of process on behalf of his client.

3. Accordingly, Whitney Bank has properly executed service of process upon Safety Guide in care of its legal counsel. *See Executed Summons attached hereto as Exhibit A.*
4. Safety Guide does not oppose this motion.

WHEREFORE, Plaintiff Whitney National Bank respectfully requests that this Court deny as moot Doc. 5 [Motion to Dismiss, or, Alternatively, to Quash Purported Service on Defendant Safety Guide of Alabama, LLC.]

Respectfully submitted this 14th day of June 2007.

/s/ Dennis R. Bailey
Dennis R. Bailey (4845-i71d)
Bowdy J. Brown
Bethany L. Bolger (6740-e60b)
Attorneys for Plaintiff

Of counsel:

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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing document upon the following counsel of record by placing a copy of same in the United States Mail, first class postage prepaid, on this the 14th day of June 2007.

Mr. David Martin
Copeland, Franco, Screws & Gill
Post Office Box 347
Montgomery, Alabama 36101-0347

/s/ Dennis R. Bailey
Of counsel

EXHIBIT A
to Response to Show Cause Order

(1) AO 440 (Rev. 8/01) Summons in a Civil Action

RETURN OF SERVICE		
Service of the Summons and complaint was made by me ⁽¹⁾	DATE	<u>06/11/07</u>
NAME OF SERVER (PRINT) <u>Larry Michael Newton</u>	TITLE	<u>Runner</u>
Check one box below to indicate appropriate method of service		
<input checked="" type="checkbox"/> Served personally upon the defendant. Place where served: <u>David Martin's Office</u>		
<input type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. Name of person with whom the summons and complaint were left:		
<input type="checkbox"/> Returned unexecuted:		
<input type="checkbox"/> Other (specify):		
STATEMENT OF SERVICE FEES		
TRAVEL	SERVICES	TOTAL \$0.00
DECLARATION OF SERVER		
I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.		
Executed on <u>06/11/07</u> Date	 <i>Larry J. Newton</i> Signature of Server	
<u>184 Commerce St. Montgomery, AL</u> <small>Address of Server</small>		
RETURNED AND FILED <small>JUN 12 2007</small>		
<small>CLERK U. S. DISTRICT COURT MIDDLE DIST. OF ALA.</small>		

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

UNITED STATES DISTRICT COURT

MIDDLE

District of

ALABAMA

WHITNEY NATIONAL BANK

ALIAS

SUMMONS IN A CIVIL ACTION

v.

SAFETY GUIDE OF ALABAMA LLC and
THOMAS J. MILLS

CASE NUMBER: 2:07-CV-414

TO: (Name and address of Defendant)

Safety Guide of Alabama, LLC
c/o David Martin
Copeland, Franco, Screws & Gill
Post Office Box 347
Montgomery, Alabama 36101-0347

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Dennis R. Bailey
Bowdy J. Brown
Rushton, Stakely, Johnston & Garrett
Post Office Box 270
Montgomery, Alabama 36101-0270

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

CLERK

Debra P. Hackell

(By) DEPUTY CLERK

K. Ray

DATE

6/11/07